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EXAMINER				
VAN HANDEL, MICHAEL P				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/929,780

**Applicant(s)**

KAWANA ET AL.

**Examiner**

MICHAEL VAN HANDEL

**Art Unit**

2623

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-12 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12 and 14-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an Amendment filed 6/27/2008. Claims **1-4, 6-12, 14-18** are pending. Claims **1-4, 6-10, 12, 17, 18** are amended. Claims **5, 13** are canceled. The examiner hereby withdraws the rejection of claims **1-4, 6-12, 14-18** under 35 USC 112, first paragraph, in light of the amendments. The examiner hereby further withdraws the objections to claims **2-4, 10-12** in light of the amendments.

### ***Response to Arguments***

1. Applicant's arguments regarding claims **1, 9, 17, and 18**, filed 6/27/2008, have been fully considered, but they are not persuasive.

Regarding claims **1, 9, 17, and 18**, the applicant argues that Ellis et al. does not teach or suggest that the transmitted program information is a user's most recent individual program information. The examiner respectfully disagrees. The applicant specifically argues that, in Ellis et al., all the program data distributed from the television distribution facility is transferred to the remote program guide access device without any selection based on the user's preferences.

Ellis et al. discloses an interactive television program guide with remote access. The interactive television program guide is implemented on interactive television program guide equipment. A remote program guide access device is connected to the interactive television program guide by a remote access link to provide a user with remote access to the program guide functions (see Abstract). Ellis et al. further discloses that each user has user television

equipment 22 for displaying the television program listings information and other program guide data using a local interactive television program guide (p. 5, paragraph 78) and that the program guide is accessible via remote program guide access device 24 over remote access link 19 (p. 5, paragraph 77). Ellis et al. discloses that the remote program guide access device 24 and the interactive television program guide implemented on interactive program guide equipment 17 may exchange access communications to provide the user with access to program guide functionality as if the program guide were running locally on remote program guide access device 24, and that the remote program guide access device 24 may provide the user with access to program guide functions, such as setting and navigating through favorite channels (p. 9, paragraph 107). Since each user has user television equipment for displaying television program listings information including favorite channel settings, and since this information is accessible via remote program guide access device, the examiner interprets the program listings information to be “a user’s most recent individual program information,” as currently claimed.

Ellis et al. further discloses that the interactive program guide may transmit status information to the remote program guide access device 24 over remote access link 19. The remote access program guide may then indicate the status of interactive television program guide equipment 17 on remote program guide access device 24, such as the current channel (p. 13, paragraph 137 & Fig. 11). This also meets the limitation of “wherein the transmitted program information is a user’s most recent individual program information,” as currently claimed.

Ellis et al. still further discloses that the remote access program guide allows users to remotely access interactive television program guide functionality related to user preferences or “favorites” settings. For example, remote program guide access device 24 may access features

for setting up and navigating through favorite channels or programs (p. 11, paragraphs 123, 124). The information on the user's preferences may be used by the local and remote access interactive program guides to navigate through favorite channels and display television program listings, such as shown in Figure 10 (p. 11, paragraph 125 & Fig. 10). Ellis et al. also discloses that user preference profiles may be used to limit the amount of data provided to remote program guide access device 24 and thereby minimize the bandwidth requirements of remote access link 19. For example, only data for those programs or channels that are of interest to the user may be transferred if desired (p. 11, paragraph 126). The examiner notes that the remote accessing of favorites programs taught by Ellis et al. also meets the limitation of "wherein the transmitted program information is a user's most recent individual program information," as currently claimed.

Regarding Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., unnecessary information is not displayed, so that the desired information can be selected efficiently, and the power consumption of the portable terminal is reduced) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **1-4, 6, 8-12, 14, 16, and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. in view of Gaucher.

Referring to claims **1, 2, 4, 6, and 17**, Ellis et al. discloses a program processing apparatus/method, comprising:

- program management means for managing a database that stores program information for programs (p. 4, 5, paragraphs 69, 70);
- transmission means for transmitting the program information stored in the database to one of a plurality of electronic apparatuses using wireless communication (p. 5, paragraphs 71, 74; p. 6, paragraph 86; & Figs. 3, 4);
- wherein the transmitted program information is a user's most recent individual program information (p. 5, paragraph 78; p. 9, paragraphs 107, 110; p. 10, paragraph 112; p. 11, paragraphs 123-126; p. 12, paragraphs 133, 134; p. 13, paragraph 137; p. 15, paragraphs 160-162; & Figs. 10, 11, 18);
- control means for controlling a plurality of programs recording and playing apparatuses in accordance with received selection information (p. 2, paragraph 15; p. 11, paragraph 127; & p. 12, paragraphs 133, 134); and
- determination means for determining whether the selection information indicates information that has been recorded previously by one of the plurality of programs recording and playing apparatuses and determining which one of the plurality of programs recording and playing apparatuses the information is recorded on (p. 6,

paragraph 87; p. 9, paragraphs 107, 110; p. 12, paragraphs 133, 134; p. 16, paragraphs 168-170; p. 21, paragraph 220; & Figs. 11, 21), and for designating a point for which to begin playback as a function of the selection information when the determination means determines the information has been recorded previously and determines which one of the programs recording and playing apparatuses the information is recorded on (the examiner notes that the user can select a stored program for playback using remote program guide access device 24. The remote program guide access device 24 issues an appropriate access communication to the interactive television program guide to play back the selection and to transmit it to remote program guide access device over remote access link 19)(p. 2, paragraph 15; p. 12, paragraphs 133, 134; p. 16, paragraphs 168-170; & Figs. 11, 21), wherein the apparatus prepares for playing in accordance with the designation and transmits an acknowledgement 2240, and wherein when the acknowledgement is confirmed 2250, playback is ready to begin (p. 2, paragraph 133 & Figs. 3, 4, 21).

Ellis et al. further discloses that the remote access link 19 is a wireless cellular link or an infrared link (p. 5, paragraph 77; p. 6, paragraph 86; & p. 7, paragraphs 90, 93, 94). Ellis et al. still further discloses that the remote program guide access device 24 is a personal digital assistant (PDA)(p. 7, paragraph 92). Ellis et al. does not disclose a switching means for switching a wireless communication unit between communication using a public circuit based on a spread spectrum communication system and short-distance wireless communication based on the spread spectrum communication system. Gaucher discloses a local wireless network (col. 2, l. 34-36). A cellular phone PDA device controls a VCR to record a particular program through a master

computer of the local wireless network if within a specific range. If out of range, the PDA device accesses the master computer and VCR through a cellular modem (col. 3, l. 32-43 & col. 6, l. 34-47, 60-63). The PDA communicates with the master computer and VCR through high power spread spectrum communications (col. 3, l. 60-61; col. 6, l. 1-17; & col. 10, l. 38-46). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the communication between the remote program access device and local interactive television program guide of Ellis et al. to include switching between a cellular network and a local spread spectrum network depending on a remote access device's location, such as that taught by Gaucher in order to provide a more cost-efficient device.

Referring to claims **3** and **11**, the combination of Ellis et al. and Gaucher teaches a program processing apparatus/portable terminal according to claims 2 and 10, respectively, wherein said portable terminal comprises a private apparatus (Since the remote program access device 24 communicates with a particular user's set-top box (see citations noted with respect to claim 1), the examiner interprets the remote program access device to be a private apparatus).

Referring to claims **8** and **16**, the combination of Ellis et al. and Gaucher teaches a program processing apparatus/portable terminal according to claims 6 and 14, respectively, wherein the short-distance wireless communication is based on an infrared data communication system (Ellis et al. p. 6, paragraph 86 & p. 7, paragraphs 90, 93).

Referring to claims **9**, **10**, **12**, **14**, and **18**, Ellis et al. discloses a portable terminal/method for recording and playing programs, comprising:

- transmission means for transmitting program information stored in a database that stores the program information for programs to one of a plurality of electronic



- apparatuses using wireless communication (p. 5, paragraphs 71, 74; p. 6, paragraph 86; & Figs. 3, 4);
- wherein the transmitted program information is a user's most recent individual program information (p. 5, paragraph 78; p. 9, paragraphs 107, 110; p. 10, paragraph 112; p. 11, paragraphs 123-126; p. 12, paragraphs 133, 134; p. 13, paragraph 137; p. 15, paragraphs 160-162; & Figs. 10, 11, 18);
  - display means for displaying the program information obtained using said transmission means (p. 7, paragraph 92; p. 8, paragraph 102; & Fig. 5);
  - command transmission means for transmitting a command that controls a plurality of programs recording and playing apparatuses to a server that controls recording and playing performed by the programs recording and playing apparatuses (p. 2, paragraph 15; p. 6, paragraph 86; p. 11, paragraph 127; & p. 12, paragraphs 133, 134); and
  - determination means for determining whether the command indicates information that has been recorded previously by one of the plurality of programs recording and playing apparatuses and determining which one of the plurality of programs recording and playing apparatuses the information is recorded on (p. 6, paragraph 87; p. 9, paragraphs 107, 110; p. 12, paragraphs 133, 134; p. 16, paragraphs 168-170; p. 21, paragraph 220; & Figs. 11, 21), and for designating a point for which to begin playback as a function of the command when the determination means determines the information has been recorded previously and determines which one of the programs recording and playing apparatuses the information is recorded on (the examiner notes

that the user can select a stored program for playback using remote program guide access device 24. The remote program guide access device 24 issues an appropriate access communication to the interactive television program guide to play back the selection and to transmit it to remote program guide access device over remote access link 19)(p. 2, paragraph 15; p. 12, paragraphs 133, 134; & p. 16, paragraphs 168-170), wherein the determined programs recording and playing apparatus prepares for playing in accordance with the designation and transmits an acknowledgement 2240, and wherein, when the acknowledgement is confirmed 2250, playback is ready to begin (p. 2, paragraph 133 & Figs. 3, 4, 21).

Ellis et al. further discloses that the remote access link 19 is a wireless cellular link or an infrared link (p. 5, paragraph 77; p. 6, paragraph 86; & p. 7, paragraphs 90, 93, 94). Ellis et al. still further discloses that the remote program guide access device 24 is a personal digital assistant (PDA)(p. 7, paragraph 92). Ellis et al. does not disclose a switching means for switching a wireless communication unit between communication using a public circuit based on a spread spectrum communication system and short-distance wireless communication based on the spread spectrum communication system. Gaucher discloses a local wireless network (col. 2, l. 34-36). A cellular phone PDA device controls a VCR to record a particular program through a master computer of the local wireless network if within a specific range. If out of range, the PDA device accesses the master computer and VCR through a cellular modem (col. 3, l. 32-43 & col. 6, l. 34-47, 60-63). The PDA communicates with the master computer and VCR through high power spread spectrum communications (col. 3, l. 60-61; col. 6, l. 1-17; & col. 10, l. 38-46). It would have been obvious to one of ordinary skill in the art at the time that the invention was

made to modify the communication between the remote program access device and local interactive television program guide of Ellis et al. to include switching between a cellular network and a local spread spectrum network depending on a remote access device's location, such as that taught by Gaucher in order to provide a more cost-efficient device.

3. Claims **7, 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al. in view of Gaucher and further in view of Clapper.

Referring to claims **7** and **15**, the combination of Ellis et al. and Gaucher teaches a program processing apparatus/portable terminal according to claims 6 and 14, respectively. The combination of Ellis et al. and Gaucher does not teach that the short-distance wireless communication be based on the Bluetooth system. Clapper discloses controlling a set-top box with a remote control unit using a Bluetooth protocol (col. 2, l. 16-32). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the remote program access device in the combination of Ellis et al. and Gaucher to include communicating with the set-top box over a Bluetooth protocol, such as that taught by Clapper in order to provide a simple and accessible protocol for communicating between devices.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL VAN HANDEL whose telephone number is (571)272-5968. The examiner can normally be reached on 8:00am-5:30pm Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chris Kelley/

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MVH